

City of Detroit Human Rights Department

ADMINISTRATIVE DIRECTIVE DETROIT BUSINESS CERTIFICATION PROGRAM DETROIT-BASED BUSINESS (DBB) DETROIT HEADQUARTERED BUSINESS (DHB) DETROIT SMALL BUSINESS (DSB)

1.0 DEFINITIONS

For purposes of this Directive, the following terms have the meanings specified below:

- 1.01 **Business** shall mean any association, cooperative, corporation, individual, joint venture, partnership, sole proprietorship or other legal entity; excluding non-profits.
- 1.02 **Certification related fee(s)/charge(s)** the Human Rights Department reserves the right at any time to establish, change and collect fees/charges with the approval of City Council as required by Section 9-507 of the Detroit City Charter, for certification application services, re-certification services, certificates and or distribution of the City of Detroit-Certified Business Register. Such fees/charges, conditions and terms as applicable shall be made available in writing.
- 1.03 **City** shall mean the City of Detroit, Michigan.
- 1.04 **City of Detroit-Certified Business Register** is a listing of certified businesses with important individual information about them. The Human Rights Department maintains, publishes and distributes this book periodically in hard copy and maintains an online version that is continually updated. This compilation is a valuable resource for public and private procurement officials. Although all businesses with current certifications are listed within such businesses have no entitlement to receive it through distribution. It is distributed for procurement support but is not offered or made available in hard copy to persons or organizations not on the department's procurement mailing list.

1.05 Detroit-Based Business (“DBB”) shall mean a business as described in Section 1.05 and found qualified to be certified a Detroit Based Business pursuant to Sections 1.05 and 2.0 or 1.19 of this Directive. A business which pays City income taxes on its net profits and pays City property taxes on 1) a plant or an office and equipment which are ordinarily required for the furnishing of the goods or the performance of the services required by the contract and referred to in the application for certification as a Detroit Based Business or 2) other real or personal property in the City equivalent in value to such plant or office and equipment, for not less than one (1) taxable year to the date of the application for certification as a Detroit-Business Business. In addition, a Detroit-Based Business shall satisfy at least three (3) of the following eight (8) criteria:

1. Provide verification that an existing inventory of the products which the business offers to the City is physically located at a City site; or
2. Provide verification of the ability of the business to service/repair products to be sold to the City At a City site; or
3. Provide verification that the business has an adequate number of employees based at its City site to perform the services indicated in its application for certification; or
4. Provide verification that its headquarters is located within the City; or
5. Provide verification that the headquarters is located within the City of Detroit and is that place where the Chief Executive Officer and highest-level managerial employees of that business have their offices and perform their management function; or
6. Provide references, licenses or other means of verification acceptable to the City that the services the firm offers to the City have been provided for at least one (1) year at a City site; or
7. Provide documentation that a majority (51%) of the firm’s employees working at its City site are Detroit residents; or
8. Provide verification that the firm has the physical resources at its City site to provide the services indicated in its application for certification.

1.06 Detroit Headquartered Business (“DHB”) shall mean a business as described in Sections 1.05 and 1.06 and found qualified to be certified Detroit based and headquartered business pursuant to Sections 1.05, 1.06 and 2.0 or 1.21 of this Directive. Meets the definition: Is a DBB whose headquarters is located within the City of Detroit and the headquarter is that place where the Chief Executive Officer and highest-level managerial employees of that business have their offices and perform their management functions. A business may demonstrate that its office in Detroit is the company headquarters by showing the following:

- a) It has no business operation(s) or facilities that are located outside the corporate limits of Detroit, therefore its headquarters can only be within Detroit or

- b) It does have business operation(s) or facilities that are located outside the corporate limits of Detroit, therefore it must substantiate that it has only one headquarter location and it is within Detroit by the following:
 - i) The Chief Executive Officer and each of the highest level managers listed in the application must complete and submit an HRD Income Tax Clearance Form to the Income Tax Division of the City of Detroit which demonstrates that income tax has been paid to the City for one year prior to submission of the application for certification and
 - ii) Provide headquarter site access for review of the corporate records and the payroll records for those individuals identified as the Chief Executive Officer and each of the business highest level managers and for review of the business site and the business equipment, and
 - iii) Produce an official and incontrovertible public notices, records, corporate filings, etc that demonstrate that the headquarters is located within the City of Detroit.

Note: In the event that HRD has information, which casts doubt on the applicant's assertion about the business headquarters, additional factors may be reviewed.

1.07 Detroit Small Business ("DSB") shall mean a business as described in Sections 1.05 and 1.07 and found qualified to be certified Detroit based and small business pursuant to Sections 1.05, 1.07 and 2.0 or 1.21 of this Directive. A Detroit Small Business shall be independently owned and operated and shall not be one of the recognized leaders or dominant firms in its field of operation. A business is not a "dominant firm in its field of operation" when it does not exercise a controlling or major influence in a kind of commercial activity in which a number of businesses are primarily engaged.

Listed below are the size limitations for small businesses in various fields of operation. The amount of annual receipts or the number of employees indicates the maximum permitted for a business (including domestic and foreign affiliates, regardless of whether they are organized for profit) to be considered small. Size limitations are defined by the City of Detroit Purchasing Ordinance, Sec. 18-5-1 (2000) based on the Federal Small Business Administration's regulations, 13 C.F.R. s 121.601 (1994) and the revisions thereto, 59 Fed. Reg. at 16,513, et seq. (1994) or subsequently adopted by the City as amended.

- a) **General construction business** whose average annual gross receipts are less than seventeen million dollars (\$17,000,000) in the three (3) fiscal years preceding the date of application;
- b) **Specialty construction business** whose average annual gross receipts are less than seven million dollars (\$7,000,000) in the three (3) fiscal years preceding the date of application;
- c) **Manufacturing business** which has provided full-time employment to fewer than five hundred (500) persons in the three (3) fiscal years preceding the date of application;

- d) **Service business** whose average annual gross receipts are less than five million dollars (\$5,000,000) in the three fiscal years preceding the date of application;
 - e) **Retail business** whose average annual gross receipts are less than five million dollars (\$5,000,000) in the three (3) fiscal years preceding the date of application;
 - f) **Wholesale business** which has provided full-time employment to fewer than one hundred (100) persons in the three (3) fiscal years preceding the date of application; and
 - g) **Professional Services business** whose average annual gross receipts are less than three million dollars (\$3,000,000) in the three (3) fiscal years preceding the date of application.
- 1.08 **Detroit Business Certification Program (DBCP)** is administered and regulated by the City of Detroit-Human Rights Department.
- 1.09 **Executive Order No. 2003-3** identifies the types of certified business categories and establishes the Human Rights Department's authority to certify such categories.
- 1.10 **Executive Order No. 2003-4** directs City departments and agencies to implement specific purchasing goals for the utilization of DHB's and DBB's.
- 1.11 **Executive Order No. 2003-5** establishes uniform evaluation criteria to be utilized by all City departments in bidding and award of professional service contracts.
- 1.12 **General construction business** shall mean a business that (a) is a general contractor for any of the following: industrial buildings, residential buildings, single family houses or warehouses or (b) performs heavy construction which includes, but is not limited to, the following: bridges, communications lines, elevated highways, highways, pipelines, power lines, sewer lines, streets, tunnels or water lines.
- 1.13 **Human Rights Department (HRD)** shall mean the Human Rights Department of the City.
- 1.14 **Human Rights Director** shall mean the Director of the Human Rights Department.
- 1.15 **Purchasing** shall mean the Purchasing Division of the Finance Department of the City.
- 1.16 **Re-certification** is an abbreviated application process provided at the expiration of a standard two-year Detroit based certification applied for within ninety (90) days following expiration.

1.17 **Site Visit(s)** Employee interviews and examination(s) of personnel and business records, procedures, space, furnishings, office and operating equipment, supplies, inventory etc. as needed to further verify business eligibility for certification(s) occur during the site visit. It will be conducted by Human Rights Department staff for all initial DBB applicants, and may be conducted due to changes of a certified business affecting eligibility, additional new certification(s) applied for, re-certification(s) and to investigate evidence arising out of certification denials or allegations of misrepresentation regarding certification.

1.18 **Specialty construction business** shall mean a business that performs any of the following: carpentry; concrete work; electrical work; excavation work; floor laying; glass and glazing work; heating, ventilation and air conditioning; installation or erection of building equipment; masonry, stone setting and other stone work; painting and paper hanging; plastering, drywall, acoustical and insulation work; plumbing; roofing, siding and sheet metal work; structural steel erection; terrazzo, tile, marble and mosaic work; water well drilling; or wrecking and demolition work, as well as other categories of specialty construction as may identified by the Purchasing Division.

1.19 **Successor Business Certification(s)** is when a new business assumes the rights and burdens of another Detroit certified business and obtain ownership of the predecessor's certification(s). The following six factors will be considered in deciding if a Detroit certification in a new business name can be transferred from another business to a new business:

- 1) the predecessor's certification must be in effect,
 - 2) the new business must have conducted business less than one year and therefore unable to produce documentation requirements such as taxes, invoices etc.,
 - 3) the successor can show continuity of management, assets, and general business operations of the predecessor business,
 - 4) the predecessor business ceases operations and dissolves
 - 5) the new business assumes the liabilities and obligations of the predecessor business; and
 - 6) the new business holds itself out as the successor of the old business
- a) certification rights to a successor business shall extend to the expiration date of the predecessor's certification or one year, whichever is longer
 - b) at expiration the successor business must complete the standard application process required of any business seeking certification for the first time and a new certification file will begin

2.0 CERTIFICATION PROCEDURES

- 2.01 **Certificates granted** a business may apply for certification as a DBB, DHB and or DSB. All businesses found qualified for DHB will receive a certificate for DHB and not DBB. A business found qualified, for DSB will receive a certificate for DSB and also a DHB certificate if determined headquartered in Detroit. Businesses not qualifying as DHB or DSB can qualify as a DBB.
- 2.02 **Certification duration** under standard application procedures shall be two years based on the DBB certificate issue date. In the event that a DBB subsequently applies for a DHB or DSB after receiving a DBB certificate and it is granted. The expiration date for the DHB and DSB shall correspond with its current DBB expiration date. The city reserves the right to request follow-up documentation from a particular business if information changes or a complaint is filed.
- 2.03 **The HRD shall have the duty to certify businesses for the DBCP.** The HRD shall determine whether an applicant business satisfies the prerequisites for certification as a DBB , DHB and/or an DSB.
- a) The HRD shall prescribe the form of DBCP applications identify the supporting materials (e.g., tax filings, articles of incorporation and licenses etc.) that a business is required to submit for certification in each DBCP certification category (i.e., whether the applicant business is a DBB, DHB and or DSB. Before issuance, the DBCP application form must be approved by both the Human Rights Director and Corporation Counsel of the City.
 - b) DBCP application forms shall be available in the offices of the HRD and online. DBCP application forms will also be distributed by the HRD to contracting departments.
 - c) If the HRD concludes that an applicant business qualifies as a DBB, DHB and/or an DSB, it shall issue a "Notice of DBCP Certification" that includes the following:
 - i. The inception date of the certification;
 - ii. The expiration date of the certification;
 - iii. The DBCP certification category (i.e., whether the applicant business is a DBB, DHB and/or DSB and;
 - iv. The Purchasing Division Commodity Class names and numbers for the goods and services for which the applicant business has received certification.
 - v. If an applicant business has been certified as a DBB, DHB and or DSB, the HRD is to specify in the "Notice of DBCP Certification" the Purchasing Division Commodity Class names and numbers that pertain to each DBCP certification category.
 - d) If the HRD determines that an applicant business does not satisfy the applicable requisites, it shall issue a "Denial of DBCP Certification" that explains the HRD's reasons for its conclusion and that offers the applicant business the opportunity to informally discuss the denial with the HRD. The procedure for appealing from a "Denial of DBCP Certification" is described in Subsection 2.08 of this Directive.

- e) Within seven (7) calendar days of the date of its decision, the HRD shall mail to the applicant business one of the notices described in Subsections 2.03(c) and 2.03(d) by Certified Mail, Return Receipt Requested.

- 2.04 The HRD is to follow up on incomplete files.** If the HRD determines that the applicant business' file is not complete after initially reviewing said file, the HRD shall write to that business to obtain the remaining information. If the applicant business does not provide the requested information within two-weeks (10 business days) of the date of the HRD's request, the HRD may, in its sole discretion, deem the application abandoned. The HRD may close abandoned files.
- 2.05 Small Business certifications from other governmental agencies.** If, within the twelve (12) months prior to submitting a DSBP application and an applicant business is currently certified by another governmental agency, whose small business definitions are substantially the same as those contained in Subsection 1.07 or are more restrictive (i.e., definitions requiring lower average annual gross receipts or fewer employees), the HRD shall regard such certification as prima facie evidence of eligibility in meeting size requirements. In such circumstances, the HRD shall have the right and duty to require supporting documentation to verify a business' small business certification status.
- 2.06 Monitoring of status.** A DBCP certified business is **required** to immediately notify in writing the HRD about any change in its circumstances that affect either the representations that it has made in its application materials or its status as a DBCP certified business.
- 2.07 Misconduct will result in decertification and disqualification from the DBCP.** The HRD shall decertify any business that either obtains its certification through fraud, deceit or misrepresentation or fails to report any changes that materially affect that business' qualification for certification. **Upon such a finding, the Purchasing Division shall remove the name of the business from all DBCP vendor lists, maintained pursuant to Section 3.0 of this Directive, for a period of three (3) years.**
- 2.08 Procedure for appealing from a denial of DBCP certification.** This Subsection establishes the exclusive procedure for an applicant business that seeks relief from a "Denial of DBCP Certification," issued pursuant to Subsection 2.03 (d). Further, the procedure set forth in this Subsection is available only to an applicant business seeking relief from a "Denial of DBCP Certification." The procedure for appealing from a "Denial of DBCP Certification" is as follows:
- a. Within fourteen (14) calendar days of the date of receipt of a "Denial of DBCP Certification," as described in Subsection 2.03 (d), an applicant business may file with the HRD a written request for an informal discussion, the purpose of

- which is to permit the business to discuss its concerns about the denial. A “Denial of DBCP Certification” may be modified or reversed at this stage of the appeal process.
- b. After the informal discussion, the HRD shall issue a “Confirmation Notice” that outlines these subject matters:
 - i. The issues discussed at and the outcome of the informal discussion and
 - ii. The applicant business’ appellate rights.
 - iii. The HRD shall mail to the applicant business a copy of the “Confirmation Notice” by Certified Mail, Return Receipt Requested.
 - c. Only after it has exhausted the procedures set forth in Subsections 2.08 (a) and 2.08 (b), may an applicant business appeal from a “Denial of DBCP Certification.” A typewritten or printed “Claim of Appeal” shall be filed with the Human Rights Director within fourteen (14) calendar days of the date of receipt of a “Confirmation Notice.” A “Claim of Appeal” shall satisfy all of the following requirements:
 - i. Include a detailed narrative of all of the bases for reversal of the HRD’s decision to deny DBCP certification. Any basis omitted from the “Claim of Appeal” is waived;
 - ii. Include documentation supporting the applicant business’ claim that it satisfies the requirements for DBCP certification;
 - iii. Include a copy of the “Confirmation Notice” described in Subsection 2.08(b) of this Directive;
 - iv. Include a statement from the applicant business as to whether it desires an opportunity to discuss its appeal with the Human Rights Director; and
 - v. Exclude any reliance on or reference to changes in the applicant business’ ownership, operation and/or management occurring after the date of the “Denial of DBCP Certification.”
 - d. A “Claim of Appeal” that does not substantially conform to the requirements of Subsection 2.08© of this Directive may be dismissed by the Human Rights Director without a decision on the merits of the appeal.
 - e. The decision of the Human Rights Director, or designee, is final and is subject neither to further appeals pursuant to Subsection 2.08 nor to the reconsideration procedure of Subsection 2.09. The HRD shall dismiss any filing that violates the provisions of this Subsection.
- 2.09 Procedure for reconsideration of a HRD decision other than a denial.** This Subsection establishes the exclusive procedure for an applicant business that seeks review of certification determinations made by the HRD in a “Notice of DBCP Certification,” issued pursuant to Subsection 2.03©. To reiterate, the procedure established in this Subsection is not available to an applicant business that has received a “Denial of DBCP Certification,” the appeal process for which is described above in Subsection 2.08. By way of example, a business that has been certified as a DBB or an DSB, but which is aggrieved because it was certified for fewer than all of the Purchasing Division

Commodity Codes for which it sought certification may seek relief under this Subsection. An applicant business may seek reconsideration in the following types of circumstances:

- (i) it has undergone substantive, documented changes in its, operation and/or management;
 - (ii) it has compelling and substantial proof that the HRD committed an error in processing the business' application for certification; or
 - (iii) it was not certified in all of the DBCP certification categories or for all of the Purchasing Division Commodity Codes for which it sought certification.
- a) An applicant business may seek reconsideration only once per year, and it must include in its "Petition for Reconsideration" all of the bases upon which it seeks reconsideration. Any basis omitted from the "Petition for Reconsideration" is waived.
 - b) An applicant business shall file its typewritten or printed "Petition for Reconsideration" to the HRD no earlier than six (6) months after and no later than twelve (12) months after the date of "Notice of DBCP Certification." A "Petition for Reconsideration" submitted more than twelve (12) months after the date of a notice will not be reviewed and the applicant business will be required to re-apply for DBCP certification.
 - c) The certification guidelines established shall apply to the evaluation of the merits of a "Petition for Reconsideration."
 - d) The HRD's disposition of a "Petition for Reconsideration" is final and is subject neither to the appeal procedure of Subsection 2.08 nor to further reconsideration pursuant to Subsection 2.09. The HRD shall dismiss any filing that violates the provisions of this Subsection.

3.0 CREATION OF LISTS OF CERTIFIED BUSINESSES

- 3.01 Creation of lists of DBCP certified businesses.** The HRD shall establish and maintain a database to be updated regularly that list all DBCP businesses. This database will be used to compile the Certified Business Register book, which will be updated and distributed periodically in hard copy and online. The Register shall be made available and distributed to the Purchasing Division, contracting departments and, upon request, private parties and non-City governmental agencies that are associated with procurement activities.
- 3.02 Requirements of Executive Order No. 2003-4.** The goal of Executive Order No. 2003-4 is to award to DHB and DBB businesses thirty percent (30%) of the total dollar value of the City's contracts for goods and services awarded.
- 3.03 Contracting department(s) to obtain online from the HRD the most current Register listings.** The Register shall be used to identify Detroit Based Businesses that may be assigned to contracts and subcontracting opportunities.

The End

INQUIRIES OR CONCERNS RELATED TO THE CITY'S PROCUREMENT OR BIDDING PRACTICES SHOULD BE ADDRESSED TO THE CONTRACTING AGENCY AND OR THE PURCHASING DIVISION OF THE FINANCE DEPARTMENT